

A bill for an act
relating to civil commitment; modifying the time frame in which a person
committed as a sexually dangerous person may petition the court for a reduction
in custody; amending Minnesota Statutes 2008, section 253B.185, subdivisions
1, 9.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 253B.185, subdivision 1, is amended to
read:

Subdivision 1. **Commitment generally.** (a) Except as otherwise provided in this
section, the provisions of this chapter pertaining to persons who are mentally ill and
dangerous to the public apply with like force and effect to persons who are alleged or
found to be sexually dangerous persons or persons with a sexual psychopathic personality.
Before commitment proceedings are instituted, the facts shall first be submitted to the
county attorney, who, if satisfied that good cause exists, will prepare the petition. The
county attorney may request a prepetition screening report. The petition is to be executed
by a person having knowledge of the facts and filed with the committing court of the
county in which the patient has a settlement or is present. If the patient is in the custody
of the commissioner of corrections, the petition may be filed in the county where the
conviction for which the person is incarcerated was entered. Upon the filing of a petition
alleging that a proposed patient is a sexually dangerous person or is a person with a
sexual psychopathic personality, the court shall hear the petition as provided in section
253B.18. In commitments under this section, the court shall commit the patient to a secure
treatment facility unless the patient establishes by clear and convincing evidence that a
less restrictive treatment program is available that is consistent with the patient's treatment
needs and the requirements of public safety.

(b) A written treatment report and review hearing under section 253B.18, subdivision 2, is not required for persons committed under this section. If the court commits a person under this section, the court shall immediately order an indeterminate commitment as provided in section 253B.18, subdivision 3.

Sec. 2. Minnesota Statutes 2008, section 253B.185, subdivision 9, is amended to read:

Subd. 9. **Petition for reduction in custody.** (a) This subdivision applies only to committed persons as defined in paragraph (b). The procedures in section 253B.18, subdivision 5a, for victim notification and right to submit a statement under section 253B.18 apply to petitions filed and reductions in custody recommended under this subdivision.

(b) As used in this subdivision:

(1) "committed person" means an individual committed under this section, or under this section and under section 253B.18, as mentally ill and dangerous. It does not include persons committed only as mentally ill and dangerous under section 253B.18; and

(2) "reduction in custody" means transfer out of a secure treatment facility, a provisional discharge, or a discharge from commitment. A reduction in custody is considered to be a commitment proceeding under section 8.01.

(c) A petition for a reduction in custody or an appeal of a revocation of provisional discharge may be filed by either the committed person or by the head of the treatment facility and must be filed with and considered by the special review board. A committed person may not petition the special review board any sooner than ~~six~~ 12 months following either:

(1) the entry of judgment in the district court of the order for commitment issued under section 253B.18, subdivision 3, or upon the exhaustion of all related appeal rights in state court relating to that order, whichever is later; or

(2) any recommendation of the special review board or order of the judicial appeal panel, or upon the exhaustion of all appeal rights in state court, whichever is later. The medical director may petition at any time. The special review board proceedings are not contested cases as defined in chapter 14.

(d) The special review board shall hold a hearing on each petition before issuing a recommendation under paragraph (f). Fourteen days before the hearing, the committing court, the county attorney of the county of commitment, the designated agency, an interested person, the petitioner and the petitioner's counsel, and the committed person and the committed person's counsel must be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to

3.1 statutory notice of the hearing or those administratively required to attend may be present
3.2 at the hearing. The patient may designate interested persons to receive notice by providing
3.3 the names and addresses to the commissioner at least 21 days before the hearing.

3.4 (e) A person or agency receiving notice that submits documentary evidence to the
3.5 special review board before the hearing must also provide copies to the committed person,
3.6 the committed person's counsel, the county attorney of the county of commitment, the case
3.7 manager, and the commissioner. The special review board must consider any statements
3.8 received from victims under section 253B.18, subdivision 5a.

3.9 (f) Within 30 days of the hearing, the special review board shall issue written
3.10 findings of fact and shall recommend denial or approval of the petition to the judicial
3.11 appeal panel established under section 253B.19. The commissioner shall forward the
3.12 recommendation of the special review board to the judicial appeal panel and to every
3.13 person entitled to statutory notice. No reduction in custody or reversal of a revocation
3.14 of provisional discharge recommended by the special review board is effective until it
3.15 has been reviewed by the judicial appeal panel and until 15 days after an order from the
3.16 judicial appeal panel affirming, modifying, or denying the recommendation.